



KANSAS CITY WATER SERVICES

OFFICE OF THE DIRECTOR
4800 E. 63rd Street
Kansas City, MO 64130

P: 816-513-0504 F: 816-513-0185

July 25, 2016

Ms. Diane Huffman, Branch Chief
US Environmental Protection Agency Region 7
Water, Wetlands and Pesticides Division
11201 Renner Boulevard
Lenexa, KS 66219

RE: KCMO's Response to EPA's 308 Information Request regarding overflows in Mission Hills, KS

Dear Ms. Huffman:

The City received the Information Request on June 21, 2016, and was granted an extension to respond through July, 25, 2016. We appreciate the Agency's grant of extension. Please find the City's response to EPA's 308(a) inquiry related to sewer overflows in Mission Hills, KS, along with a flash drive containing the responsive records.

As EPA is aware, the City has been pursuing short term and long term solutions to the sanitary overflow issues in Mission Hills, KS and specifically at 5600 Mission Drive. On June 28, 2016, we briefed the affected homeowners near the 5600 Mission Drive site on the scope of the anticipated work. Work associated with the short term solution is ongoing with the City having recently completed the necessary basement elevation survey work. We are also moving forward with our long term solution/hydrologic study of our portion of the Mission Hills system, with smoke testing commencing in the immediate future.

Should you have any questions or concerns or require any additional information, please feel free to contact Matt Gigliotti – 816-513-3153.

Sincerely,

Terry Leeds, Director

cc: Andy Shivley
David Nelsen
Matt Gigliotti

Encl: City's Response to EPA's Enclosure 1
flash drive of responsive documents

**INFORMATION REQUEST
KCMO RESPONSE TO ENCLOSURE 1**

ENCLOSURE 1: REQUESTED INFORMATION FROM KCMO

Preliminary Information

1. Identify the person to contact regarding your response, including title, address and phone number.

Response: Matt Gigliotti; Associate City Attorney; Office of the City Attorney, Kansas City, MO; 414 E 12th Street, 23rd Floor; Kansas City, MO 64106; (816) 513-3153.

2. Your response to this Information Request is to be provided by a qualified professional. Provide the name and credentials of the person(s) providing information in response to this Information Request.

Response: Andy Shively, PE, Water Services Chief Engineering Officer. Persons assisting Mr. Shively in providing the requested information include, from KCMO:

Karine Papikian, PE, Acting Manager of Collection System Engineering;

Matt Thomas, PE, Preventative Maintenance Utility Manager;

Susan Seeley, Administrative Assistant; and

Matt Gigliotti, JD, Associate City Attorney.

David Silverstein, PE, Project Manager-Water, Burns & McDonnell (Contractor to KCMO) also assisted Mr. Shively in providing the requested information.

Request of Information

1. Please provide all information relating to overflows located within Mission Hills, Kansas since January 1, 2011. The information should include but not be limited to the following:

- a. location of overflow;
- b. date, duration, estimated or actual volume, and receiving water of any overflows;
- c. any monitoring and/or sampling that occurred during an overflow;
- d. copy of any reports to Missouri Department of Natural Resources and/or Kansas

- Department of Health and Environment providing notice of any overflow; and
e. copy of any records of complaints received.

Response: See item(s) in folder marked #1.

2. Please provide documentation of any preventative maintenance actions taken within the sewer system located in Mission Hills, Kansas.

Response: See item(s) in folder marked #2.

3. Please provide documentation, and/or a statement as to who owns and who operates each sewer system segment within Mission Hills, Kansas.

Response: See item(s) in folder marked #3. The 1996 agreement between Johnson County, KS and KCMO explicitly states in Article I, paragraph B, that each entity will "control, own, operate and maintain their respective sewerage systems." This provision remains effective. In 2006, the agreement between the parties was amended to account for JCW's acquisition of the infrastructure from Mission Hills, and Appendix E was added. Appendix E contains a list of service addresses and a statement as to ownership of particular assets in Mission Hills. KCMO has been unable to find the referenced "Figures 1, 2, and 3" but the "ownership, operation, and maintenance" obligation of KCMO as it relates specifically to the Mission Hills assets on Appendix E is limited to the textual reference to the Interceptor Sewer and particular 8 inch sewer lines flowing from KCMO through Mission Hills to the Interceptor. The enclosed map delineates ownership to the best of KCMO's knowledge.

4. Please provide documentation and/or a statement as to who maintains each sewer system segment within Mission Hills, Kansas.

Response: See item(s) in folder marked #4. The 1996 agreement between Johnson County, KS and KCMO explicitly states in Article I, paragraph B, that each entity will "control, own, operate and maintain their respective sewerage systems." This provision remains effective. In 2006, the agreement between the parties was amended to account for JCW's acquisition of the infrastructure from Mission Hills, and Appendix E was added. Appendix E contains a list of service addresses and a statement as to ownership of particular assets in Mission Hills. KCMO has been unable to find the referenced "Figures 1, 2, and 3" but the "ownership, operation, and maintenance" obligation of KCMO as it relates specifically to the Mission Hills assets on Appendix E is limited to the textual reference to the Interceptor Sewer and particular 8 inch sewer lines flowing from KCMO

through Mission Hills to the Interceptor. The enclosed map delineates ownership to the best of KCMO's knowledge.

5. Please provide any maps of the sewer system within Mission Hills, Kansas, including but not limited to any maps that may show the connection of flow between KCMO and JCW. Note for purposes of this submission, include maps that contain the entire reach of the collection system even if the reach extends beyond the boundary of Mission Hills, Kansas.

Response: See item(s) in folder marked #5. Some of the mapping provided has been created to satisfy this request. KCMO desires to provide maps that are first and foremost helpful for the topic, responsive to the request, and not currently in the possession of EPA. Should EPA require additional mapping, the City will provide the same.

6. Please provide any update to the Cooperative Agreement between the City of Kansas City, Missouri and Johnson County, Kansas since 2006 only as it relates to the sewer system located in Mission Hills, Kansas.

Response: There has been no update. The 4th amendment is the most recent iteration of this agreement.

7. Please provide any correspondence between JCW and KCMO relating to the overflows in Mission Hills.

Response: To date, and following a physical records search of files in the Director's office as well as a search of electronic communications, KCMO has been unable to find any such correspondence.

8. Please provide any report from KCMO contractors regarding the 5600 Mission Drive overflows.

Response: See item(s) in folder marked #8

9. Please provide any report indicating planned future additions, modifications and/or improvements to the sewer system in Mission Hills, Kansas.

Response: See item(s) in folder marked #9. Additionally, KCMO has included a document that is not responsive to the request, but is related to the inquiry such that its inclusion is appropriate. JCW contracted with George Butler Associates, Inc. (GBA) to conduct a Sanitary Sewer System Evaluation of sewers owned by Kansas City, Missouri that are located within the City of Mission Hills (the "GBA Report"). Water Services

received a copy of the GBA Report in February 2016. This GBA Report, together with the results of the work Burns & McDonnell is currently conducting in accordance with the 6/22/16 OCP memo, will help KCMO understand all material sources of I/I in Mission Hills, KS. Additionally, KCMO is moving forward with I/I work in the SSS area in KCMO that drains to the Interceptor. When those contractual mechanisms are in place, KCMO will supplement this response.

10. Please provide a copy of any ordinance that relates to the prohibition or regulation of storm sewer connections to the sewer system and a statement as to whether it is enforceable by KCMO in Mission Hills, Kansas.

Response: See item(s) in folder marked #10. KCMO's code prohibits stormwater flows to the sanitary system both in Chapter 60 (Sewer Use Ordinance/General Prohibitions) and in Chapter 18 (Building Regulations (Plumbing Code)). Additionally, stormwater connections to the sanitary sewer system are deemed illicit connections and are prohibited in Chapter 61 (Stormwater).

As to enforceability, as a general rule, municipal police power and ordinances operate only within the particular municipal corporation and cannot be exercised outside its boundaries. The Missouri legislature has given the City expansive power to acquire extraterritorial lands and to provide for management and control of such acquisitions, including the rights-of-way for sewers. To be sure, and as EPA is aware, the City owns and operates WWTPs beyond its corporate limits in Missouri. However, KCMO is unaware of any case interpreting the extent of this grant of power in a state other than Missouri. As such, the City maintains that it has the power to control access to its system in Mission Hills, KS. A notice from Mission Hills presumably to its residents (included) buttresses this position in its brief discussion of KCMO jurisdiction. However not all aspects of the ordinances may be readily enforceable standing alone.

For this reason (among others), the City has passed ordinances governing the terms of contracts we enter into with our interjurisdictional customers like JCW (and Mission Hills before then). One ordinance (included) provides that contracts with neighboring jurisdictions will ensure that the discharge complies with our general prohibitions (including stormwater introduction prohibitions). Both the 1988 agreement with Mission Hills (the last agreement prior to JCW's asset acquisition in Mission Hills) and the current agreement with JCW provide that the party jurisdictions will implement their respective sewer use ordinances and/or will effectively prohibit stormwater introduction to the governed systems.

STATEMENT OF CERTIFICATION

I certify that the information contained in or accompanying this submission is true, accurate, and complete.

I further certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

By Terry Leeds
(Signature)

7/25/16
(Date)

Terry Leeds
(Printed Name)

Director
(Title)